



OKLAHOMA NATIONAL GUARD
JOINT FORCE HEADQUARTERS
3501 MILITARY CIRCLE
OKLAHOMA CITY OK 73111-4398
(405) 228-5000 OR DSN 628-5000

NGOK-FHR-ES

7 May 2010

MEMORANDUM FOR Civil Service Employees Entering Military Active Duty

SUBJECT: Information for Employees Entering Military Active Duty

1. Employees must be in an appropriate leave status from their civilian position while on active duty. Appropriate leave includes: military leave, annual leave, compensatory time-off for travel, sick leave, or time off award. Employees who do not have enough appropriate leave to cover the entire period of military orders must submit an Absent Uniform Service, which changed from Leave Without Pay-US (LWOP-US), Standard Form (SF) 52-B. In accordance with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, employees that are absent from their civilian employment to perform military duty will be placed on LWOP-US, now called Absent Uniform Services, or they may choose to be separated (Separation-US). A *Request for Personnel Action* SF 52-B requesting Absent Uniform Services or Separation-US must be submitted with a copy of the active duty orders. An SF 52-B is required for all periods of Absent Uniform Services regardless of the duration. An SF 52-B begins on the first day you are on orders and ends the last time you are placed in a pay status, at the end of your orders, or according to your USERRA rights; **however you may take appropriate leave (i.e. annual) during the Absent Uniform Service time.** Notify your timekeeper if you wish to use any authorized leave. The following is designed to provide information regarding your options.

2. **MILITARY LEAVE:** If you elect to Separate-US, you may use accrued military leave prior to the Separation-US.

a. **120 Hours:** If you elect to be placed on Absent Uniform Service, you may use accrued military leave at any time during the Absent Uniform Services period. You will accrue 120 hours of military leave every fiscal year with a maximum accrual of 240 hours.

b. **44 Days:** This type of leave is beneficial to those who make more as a Federal Technician than they make as a member of the military. To be eligible to use the 44 days of military leave you must be participating in operations outside the United States, its territories and possessions. The active duty must be performed under 10 USC 12301 12301(b) (ordered to active duty, without the consent of the persons affected, for not more than 15 days a year) or 10 USC 12301(d) (ordered to active duty with the consent of the persons affected). You must be active duty without pay for all workdays on

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which this special leave is used; you should convert to active duty orders on non-workdays. Employees who decide to use this leave must inform Employee Services before initiating this action.

3. **ANNUAL LEAVE:** You may use accrued annual leave at any time during an Absent Uniform Service period, you may choose to receive a lump-sum payment for the balance of unused annual leave upon entry into active duty military service, or you may carry over the annual leave until you are restored to civilian status. The maximum accumulation of 240 hours annual leave still applies. You will not earn additional annual leave while you are in Absent Uniform Service except when you use appropriate leave during the Absent Uniform Service time.

4. **SICK LEAVE:** You will not earn additional sick leave while you are in an Absent Uniform Services status. You may use sick leave while in an Absent Uniform Services status, but only within the same guidelines that you may use sick leave while in an active pay status. Your supervisor may request documentation to support your use of sick leave. You must contact your timekeeper and supervisor for the use of sick leave.

5. **LIFE INSURANCE:** FEGLI coverage continues at no cost to you until your time in nonpay status totals 12 months. If you are in active duty military status after 12 months, **you may elect to continue FEGLI coverage for an additional 12 months by paying both the employee and agency premiums (Basic coverage) and by paying the entire cost (Optional coverage).** Per Section 1102 of Public Law 110-181, you must make the election before the end of your first 12 months in nonpay status. Contact the Employee Services Office or see the FEGLI Handbook at <http://www.opm.gov/insure/life> for detailed information.

6. **HEALTH BENEFITS:** Your enrollment in the Federal Employees Health Benefit (FEHB) Program will continue for up to 24 months in Absent Uniform Services status unless you elect to cancel it.

a. **Canceling FEHB:** If you choose to cancel FEHB coverage because of your entry on active duty initial the appropriate space on the attached checklist and you **MUST** log in to the Employee Benefits Information System "EBIS" or Interactive Voice Response System "IVRS" and cancel your coverage. Your health benefits coverage can be reinstated when you are restored to your civilian position. However, you must initiate that within 60 days from your RTD or loss of Tricare or you will have to wait until Open Season to pick up insurance. This is not considered a break in coverage, and the period of time on Absent Uniform Service or Separation-US counts toward the 5 years of coverage required for retirement purposes if you are covered by Tricare during the entire absence. If you choose to continue FEHB coverage and later cancel due to a qualifying life event, it may be considered a break in coverage for retirement purposes depending on whether or not you were also eligible for Tricare during the entire period of absence. If you do not cancel your coverage in EBIS or IVRS your FEHB will automatically continue. If you are on extended active

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duty that lasts more than 30 days, you and your family are eligible for Tricare benefits. Contact your Tricare representative for additional information.

b. Continuing FEHB during a Contingency Operation: If you are placed on active military orders in support of a contingency operation as defined in 10 USC 101(a)(13), the Federal Government could pay for your FEHB while on active duty for **24 months**. If you are in an active pay status (i.e., Annual Leave, Military Leave), you will pay for your FEHB premiums for that pay period. Since the mission changes, check with Employee Services to find a current list of contingency operations that authorize the Government to pay the employee's portion of the FEHB. In order to be eligible, individuals must meet the following criteria:

- (1) Be enrolled in FEHB and elect to continue that enrollment.
- (2) Be a member of a Reserve component of the armed forces. The Reserve components are: The Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve and the Coast Guard Reserve.
- (3) Be called or ordered to active duty (voluntary or involuntarily) in support of a contingency operation as defined in 10 USC 101(a)(13).
- (4) Be placed in an Absent Uniform Services status to perform active duty.
- (5) Serve on active duty for a period of more than 30 consecutive days.

c. Continuing FEHB while not serving on a Contingency Operation: If you are on active duty military orders under any other title than the title of service mentioned above you may keep your FEHB for up to **24 months** in an Absent Uniformed Service status. You are liable for the employee share of the premiums for the first 12 months. The following 12 months you will be liable for the employee share, government share, and a 2% administrative fee. Payment of the FEHB premiums must be made on a current basis to your servicing payroll office or may be recouped from your salary when you return to duty. Direct payments for FEHB premiums should be made by check or money order payable to Deputy Director for Finance and mailed to the DFAS location shown on your civilian leave and earnings statements. A letter explaining the purpose of the payment should accompany the check or money order. Also, include your social security number on all correspondence and keep a record of your payments.

d. Exceeding 24 months: Once the 24 month period has expired your FEHB will be cancelled automatically regardless of the type of orders that have placed you on military duty. You will not be eligible for

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Temporary Continuation of Coverage (TCC). Your FEHB will automatically be reinstated upon your return to duty only if it was cancelled due to exceeding the 24 month limit.

7. **THRIFT SAVINGS PLAN (TSP):** No contributions can be made to the civilian TSP while on Absent Uniform Services or Separation-US. However, if you are restored to a civilian position, you may elect to make up TSP contributions for all or part of the period of your military status. Also, you may be eligible to receive matching contributions into your civilian account based on your military contributions, if you elected to make them while on your active military status. The TSP Fact Sheet, TSP Benefits that Apply to Members of the Military Who Return to Federal Civilian Service, explains this new benefit in more detail.

8. **RETIREMENT SERVICE CREDIT:** An employee who is placed on Absent Uniform Services continues to be covered by the retirement law and is eligible for death or disability benefits under the applicable retirement system. Employees choosing Separation-US are not eligible for disability benefits. Survivors of employees who have separated from Federal service and die before electing a refund of retirement withholdings are eligible for survivor benefits paid upon the death of a former employee - this may or may not include a survivor annuity.

a. If you are a Civil Service Retirement System (CSRS) employee first hired before 1 October 1982, this period of Absent Uniform Service for military duty is creditable toward potential civilian retirement without making a service-credit deposit. However, if you choose not to make a deposit to cover this period of service, at age 62, your annuity will be reduced and recomputed based upon the military service deposit not being made. Information concerning military deposits can be found in the Human Resources memo entitled Information for Employees Returning from Military Active Duty.

b. If you are a Civil Service Retirement System (CSRS) employee first hired after 30 September 82, this period of Absent Uniform Service for military duty is creditable toward potential civilian retirement only if you make a service-credit deposit to cover this period of service. Information concerning military deposits can be found in the Human Resources memo entitled Information for Employees Returning from Military Active Duty.

c. If you are a Federal Employee Retirement System (FERS) employee, this period of Absent Uniform Service for military duty is creditable toward potential civilian retirement only if you make a service-credit deposit to cover this period of service. Information concerning military deposits can be found in the Human Resources memo entitled Information for Employees Returning from Military Active Duty.

9. **RESERVIST DIFFERENTIAL:** Federal civilian employees who are absent from employment with the Federal Government because they are ordered

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to perform active duty in the uniformed services in support of a contingency operation under 10 U.S.C. 101(a)(13)(B) and entitled to reemployment rights under 38 U.S.C. chapter 43 based on such absence will receive for each covered biweekly pay period a supplemental payment equal to the amount by which civilian basic pay exceeds (if at all) military pay and allowances allocated to the given period. The payroll office calculates the difference between civilian pay and military pay. If you use any type of federal civilian leave during a pay period you will not receive reservist differential allocated for that pay period.

10. ACTIONS TO BE PROCESSED WHILE YOU ARE IN ABSENT MILITARY SERVICE:

Any pay adjustments, within-grade increases, terminations of grade retention, changes in tenure, and FEGLI changes to which you are entitled during your absence will be processed on the effective date of the action. If you receive a personnel action other than the actions listed above it will be held until your return to duty. Once you return to duty the action will be processed retroactively on the date it would have been effective if you were not in an Absent Uniform Service status. Also, you will not be appraised on performance while you are in an Absent Uniform Service status. You will be considered a level three or fully successful while you are in this status.

11. RESTORATION RIGHTS: In accordance with the provisions of USERRA, Department of Defense employees who are absent from a position of employment by reason of service in the uniformed services shall be entitled to reemployment rights if, (1) they gave advance written or verbal notice of the active service to their employer, (2) the cumulative length of this and all previous absences from DoD employment for military service does not exceed 5 years, and (3) they report to or submit an application for reemployment. In some instances, the period of service is exempt from the 5-year cumulative limit; in these instances the active duty orders should cite the specific statutory reference covering the exemption. The eight categories of service which are covered by USERRA but exempt from the five-year limitation are:

a. Service required beyond five years to complete an initial period of obligated service (38 USC 4312 (c)(1)).

b. Service from which a person, through no fault of the person, is unable to obtain a release within the five-year limit (38 USC 4312 (c)(2)).

c. Required training for reservists and National Guard members (38 USC 4312(c)(3)).

d. Service under an involuntary order to, or to be retained on, active duty during domestic emergency or national security related situations (38 USC 4312(c)(4)(A)).

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e. Service under an order to, or to remain on, active duty (other than for training) during a war or national emergency declared by the President or Congress (38 USC 4312(c)(4)(B)).

f. Active duty (other than for training) by volunteers supporting "operational missions" for which Selected Reservists have been ordered to active duty without their consent (38 USC 4312 (c)(4)(c)).

g. Service by volunteers who are ordered to active duty in support of a "critical mission or requirement" in times other than war or national emergency and when no involuntary call up is in effect (38 USC 4312 (c)(4)(D)).

h. Federal service by members of the National Guard called into action by the President to suppress an insurrection, repel an invasion, or to execute the laws of the United States (38 USC 4323(c)(4)(E)).

12. TIME LIMITS FOR RESTORATION: Depending on your length of military orders there are different time periods in which you can apply for restoration to your civilian position. Please use the following guidance to determine your restoration date.

a. **30 Days or Less:** You must report not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for your safe transportation from the place of service to your residence; or as soon as possible after the expiration of the eight-hour period referred to above if reporting within the period above is impossible or unreasonable through no fault of your own.

b. **More than 30 days and up to 180 days:** You must submit an application for reemployment (i.e. SF 52-B for RTD) not later than **14 days** after the completion of the period of service or if submitting such application within such period is impossible or unreasonable through no fault of your own, the next first full calendar day when submission of such application becomes possible.

c. **More than 180 days:** You must submit an application for reemployment (SF 52-B for RTD) within **90 days** of your release from the active duty order and your separation must be under honorable conditions. You may submit an SF 52-B to your servicing Human Resources Office advising them of the date you were/will be separated from active service. You are also allowed to return to your civilian position while on military terminal leave, but not PDMRA leave, if you so desire. You will be reemployed to your last permanent position only if that position is vacant at the time of your reemployment. If you cannot be reemployed in that position, we will assign you to an equivalent vacant position for which you qualify. If a suitable vacancy does not exist, you will only be entitled to displace an employee occupying a continuing position under a temporary

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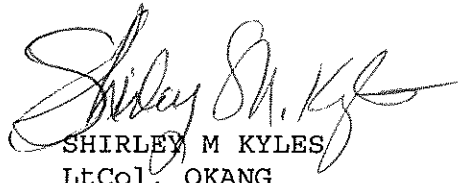
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appointment. If there is no such position available in the commuting area, your reemployment rights will be extended throughout the Oklahoma National Guard. If this effort is unsuccessful, your name will be submitted to the Director, Office of Personnel Management, who will ensure you are offered a position of like seniority, status and pay nationwide.

13. Any questions may be directed to the **Oklahoma Military Department, Attn: NGOK-FHR-ES, 3501 Military Circle, Oklahoma City, OK 73111-4398** or by calling (405) 228-5527 or DSN 628-5527.

14. Also remember to complete and sign the checklist titled Checklist for Individuals Entering Absent Uniform Services and submit it with your Absent Uniform Service SF 52-B and Active Duty orders to NGOK-FHR-ES. When an employee is placed on Absent Uniform Service, a SF-52-B for Return to Duty, amended orders, and an approved military leave form(if applicable) is to be submitted to NGOK-FHR-ES at the time the employee is to return to duty.

FOR THE ADJUTANT GENERAL:

A handwritten signature in cursive script, appearing to read "Shirley M. Kyles".

SHIRLEY M KYLES
LtCol, OKANG

Acting Director of Personnel/J1